REMARKS

Claims 5-8, 11, 14, 15, 22-24, 29, 30, 40-49, and 51-53 presently appear in this case. Claims 14, 15, 22, 29, 30, 40-43 and 49 have been withdrawn from consideration. Claims 5-8, 11, 23 and 44-48 have been allowed. Claims 24 and 51-53 have been rejected. The official action of November 5, 2002, has now been carefully studied. Reconsideration and allowance are hereby respectfully urged.

Briefly, the present invention relates to DNA encoding a polypeptide which potentiates cell death and has the sequence of SEQ ID NO:1, as well as analogs and fragments thereof. The invention also relates to the polypeptides, vectors and host cells containing the DNA, and methods of producing the polypeptides using such a host cell, as well as the pharmaceutical compositions. The present invention is also directed to oligonucleotide molecules consisting of an antisense sequence of at least a part of an mRNA encoding a polypeptide of the present invention and a pharmaceutical composition containing such oligonucleotide. The invention further relates to a method of use of the DNA and polypeptides for modulating the effect of the B1 protein on the activity of inflammation or cell death or cell survival pathways or any other signaling activity.

The examiner has reconsidered the restriction requirement but still deemed it proper and made it final. The examiner effectively chooses to disregard Example 17 of the PCT Administrative Instructions on the ground that it is only an example and there is no indication or disclosure that a DNA and corresponding protein have to be examined together when they do not share a common structure. This restriction requirement is again respectfully traversed.

DNA and the corresponding sequence never share a common structure. Neither do a key and a corresponding lock. However, the PCT Administrative Instructions clearly indicate that a key and a lock share a common special technical feature and also a protein and the corresponding DNA share a corresponding special technical feature. There is nothing in any of the Administrative Instructions that state that the protein and the DNA must share a common structure. It is, of course, impossible to assume that such was ever contemplated by Example 17. DNA and the corresponding protein cannot share a common structure. That is against the laws of nature. Surely the authors of Example 17 knew that. Furthermore, the fact that another type of claim also shares the same special technical feature with the protein is no reason to rule that the DNA does not also share the same special technical feature. The special technical feature is the novel protein.

The DNA that corresponds thereto shares the same special technical feature, as does the method of use of that protein. Accordingly, the requirement is improper and all of the claims should be examined and allowed in this case. Applicants are now preparing a petition to be filed with respect to this issue.

It is noted with appreciation that the examiner has indicated that claims 5-8, 11, 23 and 44-48 are free of prior art and are allowable.

Claims 24 and 51-53 have been rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. The examiner states that these claims are drawn to an oligonucleotide molecule "consisting of" a sequence "encoding" an antisense sequence of at least part of an mRNA sequence corresponding to a DNA sequence comprising SEQ ID NO:1. The examiner states that the specification does not disclose this. The same claims have also been rejected under 35 U.S.C. §112, first paragraph, based on lack of enablement. The examiner states that an oligonucleotide sequence encodes only a peptide sequence, and it does not encode an antisense sequence that is another oligonucleotide sequence. Reconsideration and withdrawal of both of these rejections are respectfully urged.

The examiner is, of course, correct that applicants erred in the definition of the oligonucleotide molecule. Claims 24 and 51 have now been amended to correct this error. The oligonucleotide molecule consists of the antisense sequence, as opposed to a sequence encoding the antisense sequence. It is believed that this amendment now obviates the rejections and should place claims 24 and 51 also into condition for allowance. Reconsideration and withdrawal of both of these rejections are respectfully urged.

It is submitted that all of the claims now pending in the case are now in condition for allowance. Reconsideration and allowance of all the claims now pending in the case are, therefore, earnestly solicited.

Respectfully submitted,

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